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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,080	06/15/2005	Takashi Tsuchida	SHIG CP22JU03SG	9061
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HAYES SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718				
EXAMINER				
HINES, LATOSHIA D				
ART UNIT		PAPER NUMBER		
1797				
NOTIFICATION DATE		DELIVERY MODE		
03/18/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/539,080

Applicant(s)

TSUCHIDA, TAKASHI

Examiner

LATOSHA HINES

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. Claims 11-23 are pending and have been fully considered. Claims 1-10 have been cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 11-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over CALLIS (US 2,104,021) in view of SHIELDS (US 2,330,524).

CALLIS discloses a motor fuel containing a hydrocarbon composition and an alcohol. The admixture of the **hydrocarbon** and the alcohol may be facilitated and the mixture stabilized by including in the fuel as a stabilizing agent therefor a saturated **aliphatic ether** containing at least five carbon atoms and an ether miscible **monohydric alcohol** having a higher molecular weight than the alcohol admixed with the hydrocarbon in a quantity sufficient to maintain a

homogeneous mixture at sub-zero temperatures (column 1 lines 44-53). The proportion in which the various constituents of the fuel may be present varies somewhat, when an alcohol in an amount of from 5 to 34% volume, a saturated aliphatic ether in an amount of from 2 to 10% by volume, and a higher aliphatic alcohol in an amount from 2 to 12% by volume were used. A stabilized fuel may be produced in accordance with the invention which contains as much as 12% of **water** and which is stable at -20°F (column 2 lines 11-20). A result showed a fuel containing 88% aviation **naphtha** (hydrocarbon), 10% **ethyl alcohol**, and 2% **butyl ether** of ethylene glycol has a **water** tolerance of about 2% at -20°F, whereas a similar fuel containing 4% butyl alcohol has a 1.5% water tolerance at -20°F (column 3 lines 60-72). It is obvious to one having ordinary skill in the art at the time the invention was made that the fuel composition of CALLIS has water being added to the composition since it is known in the art that hydrocarbon components and alcohols usually contain slight amounts of water. Applicant has not given an exact amount of water required to determine if the fuel composition would not perform equally as well with just the addition of water through the hydrocarbon and alcohol components. Further, independent claims 1 and 2 are drawn to a liquid fuel composition. The examiner is of the position that the preamble claim language "for an internal combustion engine having a fuel delivery system parts formed of aluminum or an aluminum alloy" is a statement of intended use and carries no weight in the composition claim.

CALLIS discloses the claimed invention except for explicitly disclosing corrosion of aluminum or an aluminum alloy part. However, SHIELDS discloses in column 1 lines 38-60, it has been observed that metallic containers, e.g., such as those composed of aluminum and/or its alloy, iron and/or steel, used generally for the storage of oil, petroleum distillates, lubricating oil, gasoline and the like become damaged by corrosion. The corrosion in such cases is generally confined to the bottoms of such tanks, and is traceable to the corrosive action of water which is found in direct contact with the inner surfaces of the metallic tanks. Both CALLIS and SHIELDS disclose various types of corrosion inhibitors to reduce to stop the corrosion of metallic containers. It is known in the art to use various corrosion inhibitors in fuels to reduce the corrosion which could cause pitting or grain boundary corrosion, as taught by SHIELDS in column 1 lines 55-60. It would have been obvious to use the corrosion inhibitor of SHIELDS in the fuel composition of CALLIS in order to reduce corrosion of metallic containers.

It has been held that obviousness is not rebutted by merely recognizing additional advantages or latent properties present in the prior art additive. Further, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. Ex parte Obiaya, 227 USPQ 58, 60 (Bd.Pat. App. & Inter. 1985).

Response to Arguments

5. Applicant's arguments, see pages 1-30, filed December 07, 2009, with respect to the rejection(s) of claim(s) 11-23 under 35 USC 103 (a) in view of CALLIS have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of CALLIS (US 2,104,021) in view of SHIELDS (US 2,330,524).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATOSHA HINES whose telephone number is 571-270-5551. The examiner can normally be reached on Monday thru Thursday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Marcheschi can be reached on 571-272-1374. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATOSHA HINES/
Examiner, Art Unit 1797

/Ellen M McAvoy/
Primary Examiner, Art Unit 1797